

# Assignment Guarantee Agreement Beverage Container Recycling Infrastructure Loan Guarantee Program



The Department of Conservation (Department) is authorized to create a ten million dollar **(\$10,000,000)** Beverage Container Recycling Infrastructure Loan Guarantee Account in the California Beverage Container Recycling Fund. Funds in this revolving account are continuously appropriated to issue capital expenditure loan guarantees for new recycling infrastructure located in the state.

## 1. Contact Information

Borrower Name:		Pre-Application/Loan Number:	
Borrower Address:	City:	State:	Zip Code:
Lender Name:		Lender Tax ID Number:	
Lender Address:	City:	State:	Zip Code:
Holder Name:		Holder Tax ID Number:	
Holder Address:	City:	State:	Zip Code:

## 2. Loan Information

Date of Note:	Original Amount of Loan:
Amount of Principal Outstanding:	As of Date:

The State of California, acting through the Department of Conservation, Division of Recycling (Department), entered into a loan guarantee with the Lender using forms DOR-LG-4 and DOR-LG-5. This loan has been issued with a \_\_\_\_\_ percent guarantee. The Holder agrees to purchase and the Lender assigns \_\_\_\_\_ percent of the guaranteed portion of the loan representing \$ \_\_\_\_\_ of such loan now outstanding according to the conditions in this Agreement.

The Lender will retain a servicing fee of: \$ \_\_\_\_\_ or \_\_\_\_\_ percent.

Copies of the following are attached:

- ☐ Form DOR-LG-5, Loan Note Guarantee
- ☐ Lender's Loan Agreement or Promissory Note

This Agreement is the \_\_\_\_\_ (first, second, third...) such Assignment Guarantee Agreement related to said loan note guarantee.

## 3. Conditions of this Agreement

1. **Loan Servicing:** Lender shall be responsible for servicing the entire loan, and Lender shall remain mortgagee and/or secured party of record notwithstanding the fact that Holder may hold a portion of the loan.

2. **Priorities:** The entire loan shall be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan shall not be paid first nor given any preference or priority over the guaranteed portion.
3. **Purchase by Holder:** The Holder shall hereby succeed to all rights of the Lender under the Loan Note Guarantee to the extent of the assigned portion of the loan. The Lender, however, shall remain bound by all obligations under the Lender's Agreement, Form DOR-LG-4, and Loan Note Guarantee, Form DOR-LG-5, now in effect and any future Department program regulations not in conflict with the provisions hereof.
4. **Full Faith and Credit:** The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the State of California and is incontestable except for fraud or misrepresentation of which the Holder has actual knowledge at the time of this assignment, or which it participates in or condones. If the note to which the Loan Note Guarantee is attached or relates provides for the payment of interest on interest, then the Loan Note Guarantee is void.
5. **Rights and Liabilities:** The guarantee and right to require purchase shall be directly enforceable by Holder notwithstanding any fraud or misrepresentation by Lender or any unenforceability of this Loan Note Guarantee by Lender. Nothing contained herein shall constitute any waiver by the Department of any rights it possesses against the Lender.
6. **Payments:** Lender shall receive all payments of principal, or interest, on account of the entire loan and shall promptly remit to the Holder its pro rata share thereof determined according to its respective interest in the loan, less only the Lender's servicing fee.
7. **Lender Repurchase:** Lender may repurchase only as provided in this Agreement and Lender's Agreement, Form DOR-LG-4.
8. **Holder Demand for Repurchase:** The Holder shall have the right to demand repurchase of the unpaid guaranteed portion of the loan by the Lender, in either of the following circumstances: (a) the Borrower is in default not less than sixty (60) days on principal and interest due on the loan; or (b) the Lender has failed to remit to the Holder its pro rata share of any payment made by the Borrower within thirty (30) days of the Lender's receipt thereof. The Holder shall notify the Department when circumstances exist that would give them the right to demand repurchase. The amount repurchased shall be equal to the unpaid guaranteed portion of the principal and interest less the Lender's servicing fee.
9. **Process for Holder to Demand Repurchase:** To demand repurchase, the Holder shall send a letter to the Lender with a copy to the Department demanding repurchase of the loan. The Lender shall repurchase the guaranteed portion if necessary to facilitate servicing of the loan, such as the application of interest assistance, or to restructure the terms of a defaulted loan when the Holder will not agree to the change. The Lender shall accept an assignment without recourse from the Holder upon repurchase. The guarantee shall not cover the note interest to the Holder on the guaranteed loan accruing after ninety (90) days from the date of the demand letter to the Lender requesting the repurchase. The Lender shall accept an assignment without recourse from the Holder after repurchase.
10. **Repurchase by Lender for Servicing:** The Lender is encouraged to repurchase the loan to facilitate the accounting of funds, prevent default, and resolve the problem, where and when reasonable. If, in the opinion of the Lender, repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the Holder shall sell the guaranteed portion of the loan to the Lender for an amount equal to the unpaid principal and interest on such portion less the Lender's servicing fee. The guarantee shall not cover the note interest to the Holder on the guaranteed loan accruing after ninety (90) days from the date of the demand letter of the Lender or the Department to the Holder requesting the Holder to tender its guaranteed portion. The Lender shall not repurchase from the Holder for arbitrage or other purposes to further its own financial gain.
11. **Reassignment:** The Holder, upon written notice to the Department and the Lender, may reassign the unpaid guaranteed portion of the loan it holds. Upon such notification, the assignee shall succeed to all rights and obligations of the Holder hereunder.

12. **Notices:** All notices shall be initiated through the Department:

California Department of Conservation  
Division of Recycling, Market Research Branch  
801 K Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attn: Beverage Container Recycling Infrastructure Loan Guarantee Program

Telephone: (916) 323-5878  
TDD (916) 324-2555

#### 4. Signatures

Lender's Representative

By: \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Name typed or printed)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Holder's Representative

By: \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Name typed or printed)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

California Department of Conservation

By: \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Name typed or printed)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

